

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF THE TOWN OF ELBERFELD,)
INDIANA, FOR APPROVAL OF ITS)
ORDINANCE GOVERNING THE PROVISION)
OF WASTEWATER UTILITY SERVICE TO)
CUSTOMERS LOCATED IN THE) CAUSE NO. 44766
UNINCORPORATED AREAS OF WARRICK)
COUNTY, INDIANA THAT ARE WITHIN)
FOUR MILES OF THE TOWN'S)
INCORPORATED BOUNDARY)

PETITIONER'S VERIFIED RESPONSE TO DOCKET ENTRY

The presiding Administrative Law Judge issued a docket entry on August 12, 2016 requesting a response by August 16, 2016 from the petitioner, the Town of Elberfeld, Indiana ("Elberfeld") to three questions set forth in that docket entry. Elberfeld now provides its response to those three questions, which response is verified by Dennis Miller, Elberfeld's assistant manager of its municipal utilities and one of its two witnesses in this cause.

Question #1: *On June 3, 2016, Elberfeld filed Petitioner's Replacement Ordinance Supplemental Exhibit ("New Ordinance"). Section 4 of the New Ordinance references Elberfeld furnishing "water or sewer service within the Regulated Territory." On page 2 of Elberfeld witness Mr. Miller's direct testimony, he explains Elberfeld intends to file a new ordinance that limits the services that Elberfeld would provide to sewer only. Thus, is the reference to water service in Section 4 of the New Ordinance a scrivener's error?*

Response: Yes, the reference to water service was inadvertent.

Question #2: *Section 6 of the New Ordinance states that "[t]he Town's existing Rules and Regulations for sewer service, as amended from time to time, shall apply to and within the Regulated Territory." Please provide a copy of Elberfeld's rules and regulations for sewer service.*

Response: Elberfeld's Rules and Regulations for sewer service were adopted in Ordinance No. 3-1972, a copy of which is attached hereto. Also included is Elberfeld's Ordinance No. 2003-1 governing wastewater pretreatment.

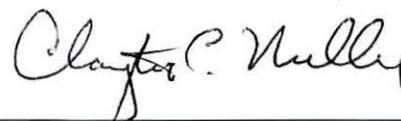
Question #3: Elberfeld's Amended Rate Ordinance (Ordinance No. 2007-1), page 2, Section 2, states that "[a]ll other terms and provisions of the existing Sewer Rate Ordinance as amended and not in conflict herewith shall remain in full force and effect." Please provide a copy of Elberfeld's existing Sewer Rate Ordinance.

Response: Elberfeld's Ordinance 8-1997, a copy of which is attached, contains ten sections governing Elberfeld's provision of sewer service. The schedule of rates and charges and other terms set forth in that ordinance have been amended from time to time over the ensuing years, most recently in the referenced Ordinance 2007-1. Other amendments were adopted by Elberfeld's Town Council twice in 1999 (Ordinance 1999-4 amended the schedule of sewer rates and charges, and Ordinance 1999-6 (included herein) adjusted sewer connection fees), once in 2002 (adjusting the sewer deposit charge) and once again in 2003 (Ordinance #2003-4 also amended the schedule of sewer rates and charges).

Respectfully submitted,

TOWN OF ELBERFELD, INDIANA

By

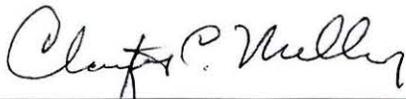


Clayton C. Miller, Att'y No. 17466-49
Bamberger, Foreman, Oswald & Hahn, LLP
201 N. Illinois St., Suite 1225
Indianapolis, IN 46204
Telephone: (317) 822-6786
Facsimile: (317) 464-1592
Email: cmiller@bamberger.com

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the Petitioner's Verified Response to Docket Entry was served on the following by hand delivery or U.S. mail, first-class postage prepaid, this 16th day of August, 2016:

Office of Utility Consumer Counselor
National City Center
115 West Washington Street, Suite 1500 S
Indianapolis, Indiana 46204



Clayton C. Miller

VERIFICATION

I, Dennis Miller, affirm under penalties for perjury that the representations made in my direct and rebuttal testimony prefiled in this cause, as well as the representations made in Elberfeld's August 16, 2016 response to the presiding Administrative Law Judge's August 12, 2016 docket entry, are true to the best of my knowledge, information and belief.



Dennis Miller

Date: 8-16-16

CAUSE NO. 44766

MATERIALS REFERENCED IN RESPONSE TO DOCKET ENTRY

QUESTION #2

SEWER RULES AND REGULATIONS ORDINANCE

ORDINANCE NO. 3 -1972

AN ORDINANCE REGULATING THE USE OF PUBLIC AND PRIVATE SEWERS AND DRAINS; THE INSTALLATION AND CONNECTION OF BUILDING SEWERS AND THE DISCHARGE OF WATERS AND WASTES INTO THE PUBLIC SEWER SYSTEM; AND DECLARING NUISANCES; AND PROVIDING PENALTIES FOR VIOLATIONS OF SECTIONS THEREOF; IN THE TOWN OF ELBERFELD, INDIANA.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF ELBERFELD, WARRICK COUNTY, INDIANA:

SECTION I DEFINITIONS

Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

- A. "Sewage Works" shall mean all facilities for collecting, pumping, treating, and disposing of sewage.
- B. "Superintendent" shall mean the Superintendent of the Municipal Sewage Works of the Town of Elberfeld, Indiana, or his authorized deputy, agent or representative.
- C. "Inspector" shall mean any person or persons duly authorized by the Town to inspect and approve the installation of building sewers and their connection to the public sewer system.
- D. "Sewage" shall mean a combination of the water carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.
- E. "Sewer" shall mean a pipe or conduit for carrying sewage.
- F. "Public Sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
- G. "Combined Sewer" shall mean a sewer receiving both surface runoff and sewage.
- H. "Sanitary Sewer" shall mean a sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.
- I. "Storm Sewer" or "Storm Drain" shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and polluted industrial wastes.
- J. "Industrial Wastes" shall mean the liquid wastes from industrial processes as distinct from sanitary sewage.
- K. "Garbage" shall mean solid wastes from the preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.
- L. "Properly Shredded Garbage" shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than $\frac{1}{2}$ inch in any dimension.
- M. "Building Drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.

N. "Building Sewer" shall mean the extension from the building drain to the public sewer or other place of disposal.

O. "B.O.D." (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in 5 days at 20°C, expressed in parts per million by weight.

P. "pH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Q. "Suspended Solids" shall mean solids that either float on the surface of, or are in suspension in water, sewage, or other liquids; and which are removable by laboratory filtering.

R. "Natural Outlet" shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

S. "Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

T. "Person" shall mean any individual, firm, company, association, society, corporation, or group.

U. "Shall" is mandatory; "May" is permissive.

SECTION II USE OF PUBLIC SEWERS REQUIRED

A. It shall be unlawful for any person to place, deposit, or permit to be deposited in an unsanitary manner upon public or private property within the Town of Elberfeld, Indiana, or in any area under the jurisdiction of said Town, any human or animal excrement, garbage, or other objectionable waste which ordinarily would be regarded as sewage or industrial wastes.

B. It shall be unlawful to discharge to any natural outlet within said Town, or in any area under the jurisdiction of said Town, any sanitary sewage, industrial waste, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance.

C. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facilities intended or used for the disposal of sewage.

D. The owners of all houses, buildings or other structures used for human occupancy, employment, recreation or other purpose, situated within the Town or within four (4) miles thereof, whose property upon which such house, building or structure is located, abuts upon any street, alley, easement or right of way in which there is located a public sanitary or a combination storm and sanitary sewer, or which is within 300 feet of any such public sewer, are required, at their expense, to install suitable toilet facilities therein and to connect such facilities directly with such public sewer in accordance with the provisions of this ordinance, within ninety (90) days after date of notice to do so, given by the Board of Trustees to the owners by certified mail. The owners of all property served by a private sewage disposal system shall within six (6) months of the completion of a public sewer in any street, alley, easement or right of way abutting their property, make a direct connection from such public sewer to their property line. Any private disposal system found to be a health menace or nuisance by the Health Department of Warrick County shall be abandoned upon order of the Board of Trustees. (IC 1971, 18-3-1-50, 19-2-5-22 and 19-2-5-26)

E. That any violation of the provisions of Section II A, B, C and D hereof are hereby declared to be a nuisance.

SECTION III PRIVATE SEWAGE DISPOSAL

A. Where a public sanitary or combined sewer is not available under the provisions of Section II D, the building sewer shall be connected to a private sewage disposal system complying with all requirements of the State Board of Health and the Health Department of Warrick County, Indiana.

B. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the Town.

C. At such times as a public sewer becomes available to a property served by a sewage disposal system as provided in Section II D, a direct connection shall be made to the public sewer in compliance with this ordinance, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned, and filled with suitable material.

D. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the State Board of Health or the Health Department of Warrick County, Indiana.

SECTION IV BUILDING SEWERS AND CONNECTIONS

A. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenances thereof without first obtaining a written permit from the Town. Before a permit may be issued for excavating for plumbing in any public street, way or alley, the person applying for such permit shall have executed unto the Town of Elberfeld and deposited with the Clerk-Treasurer a corporate surety in the sum of \$1000.00 conditioned that he will perform faithfully all work with due care and skill, and in accordance with the laws, rules and regulations established under the authority or any ordinances of the Town of Elberfeld pertaining to plumbing. This bond shall state that the person will indemnify and save harmless the Town of Elberfeld and the owner of the premises against all damages, costs, expenses, outlays and claims of every nature and kind arising out of unskillfulness or negligence on his part in connection with plumbing or excavating for plumbing as prescribed in this ordinance. Such bond shall remain in force and must be executed for a period of one (1) year except that on such expiration it shall remain in force as to all penalties, claims and demands that may have accrued thereunder prior to such expiration.

B. There shall be two (2) classes of building sewer permits: (1) for non-industrial service, and (2) for service to establishments producing industrial waste. In either case, the owner or his agent shall make application on a special form furnished by the said Town. The permit applications shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the inspector. A permit and inspection fee of Five Dollars (\$5.00) for a non-industrial building sewer permit and Fifteen Dollars (\$15.00) for an industrial building sewer permit shall be paid to the Clerk-Treasurer at the time the application is filed.

C. All costs and expense incidental to the installation and connection of the building sewer shall be borne by the owner. The owner or the person installing the building sewer for said owner shall indemnify said Town from any loss or damage that may directly or indirectly be occasioned by said installation.

D. A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. Other exceptions will be allowed only by special permission granted by the superintendent.

E. Old building sewer or portions thereof, may be used in connection with new buildings only when they are found on examination and test by the said Inspector to meet all requirements of this ordinance.

F. The building sewer shall be constructed of one of the following sewer or plumbing pipe materials which shall conform to current applicable ASTM or Commercial Standard (CS) standard specifications:

1. Vitrified clay sewer pipe and fittings
2. Cast-iron pipe (extra heavy) and fittings
3. Schedule 40 or 80 DWV polyvinyl chloride (PVC) pipe and fittings
4. Schedule 40 or 80 DWV acrylonitrile-butadiene-styrene (ABS) pipe and fittings
5. Asbestos cement pipe (ACP) and fittings

G. All joints and connections shall be made permanently gas and water tight. The joints for the sewer pipe and fittings shall be of the following type and shall conform to current applicable ASTM or CS specifications:

1. Vitrified clay sewer pipe joints shall be factory made resilient compression joints (ASTM C425).
2. Cast-iron pipe and asbestos cement pipe joints shall be of the rubber "O" ring, flexible compression type.
3. PVC and ABS pipe joints shall be solvent welded joints.

H. The size and slope of the building sewers shall be subject to the approval of the said Inspector, but in no event shall the diameter be less than six (6) inches. The slope of such six (6) inch pipe shall not be less than one-eighth (1/8) inch per foot.

I. Whenever possible the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within three (3) feet of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the said Inspector. Pipe laying and backfill shall be performed in accordance with current A. S. T. M. Specifications except that no backfill shall be placed until the work has been inspected by the Inspector or his representative.

J. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drains shall be lifted by approved artificial means and discharged to the building sewer.

K. The connections of the building sewer into the public sewer shall be made at the "Y" branch designated for that property, if such branch is available at a suitable location. Any connection not made at the designated "Y" branch in the main sewer, shall be made only as directed by the said Inspector.

L. The applicant for the building sewer shall notify the said Inspector when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the said Inspector or his representative.

M. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in manner satisfactory to the said Town.

N. No person shall lay any gas, water or other type of conduit of any kind through any sewer of the Town or make any opening or connection of any kind through, into, or with any such sewer except for the purpose of making connection therewith as provided in this ordinance.

SECTION V - USE OF THE PUBLIC SEWERS.

A. No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water or unpolluted industrial process waters to any sanitary sewer.

B. No person shall discharge or cause to be discharged to any public sewer, any harmful waters or wastes, whether liquid, solid or gas, capable of causing obstruction to the flow in sewers, damage or hazard to structures, equipment and personnel of the sewage works, or other interference with the proper operation of the sewage works.

C. Grease, oil, and sand interceptors shall be provided when, in the opinion of the said Inspector, they are necessary for the proper handling of liquid wastes containing grease in excessive amount, or any flammable wastes, sand, and other harmful ingredients except that such interceptors shall not be required for private living quarters or dwelling units. Where installed, they shall be maintained by the owner, at his expenses, in continuously efficient operation at all times.

D. The admission into the public sewers of any waters or wastes having harmful or objectionable characteristics shall be subject to the review and approval of the Superintendent, who may prescribe limits on the strength and character of these waters or wastes. Where necessary, in the opinion of the Superintendent, the owner shall provide at his expense, such preliminary treatment as may be necessary to treat these wastes prior to discharge to the public sewer. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the said Superintendent and of the Indiana State Board of Health, and no construction of such facilities shall be commenced until said approval is obtained in writing. Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

E. When required by the Superintendent, the owner of any property served by a building sewer carrying industrial wastes shall install and maintain at his expense a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of the wastes. All measurements, tests, and analyses of the characteristics of waters and wastes shall be determined in accordance with "Standard Methods for the Examination of Water and Sewage", and shall be determined at the control manhole or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

F. No statement contained in this ordinance shall be construed as preventing any special agreement or arrangement between the Town and any industrial concern whereby industrial waste of unusual strength or character may be accepted by the Town for treatment subject to payment therefor by the industrial concern.

SECTION VI PROTECTION FROM DAMAGE

No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the municipal sewage works. A violation of this section is hereby deemed to be disorderly conduct and any such violator shall be subject to immediate arrest for such violation.

SECTION VII POWERS AND AUTHORITY OF INSPECTORS

The superintendent, inspector, and other duly authorized employees of the Town bearing proper credentials and identification shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling, and testing, in accordance with the provisions of this ordinance.

VIII NOTICE OF VIOLATION

Any person found to be violating any of the provisions of this ordinance, where a special procedure is not set forth therein, shall be served with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The violator shall, within the period of time stated in such notice, permanently cease all such violations. The failure to cease such violation is hereby declared to be a nuisance.

IX PENALTIES

A. Any person who shall continue any violation beyond the time limit provided for in Section VIII, of this ordinance, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than One Hundred Dollars (\$100.00) and costs, each days continued violation shall constitute a separate offense.

B. Any person violating any of the provisions of this ordinance shall become liable to the Town for any expense, loss or damage occasioned the Town by reason of such violation.

X CONDITIONS OF SERVICE

A. The Town shall install and maintain at its expense the main sewer and the customer shall install and maintain at his expense that portion of the service from said main sewer to his premises. The size and slope of the building sewers shall be subject to the approval of the authorized personnel of the Town, but in no event shall the diameter be less than six (6) inches. Whenever possible the building sewer shall be brought to the building at an elevation below the basement floor.

B. Applications may be cancelled and/or sewer service discontinued by the Town for any violation of any rule, regulation or condition of service, and especially for any of the following reasons:

1. Misrepresentation in the application as to the property or fixtures to be serviced by the sanitary sewer system.
2. Nonpayment of bills.
3. Improper or imperfect service pipes and fixtures or failure to keep same in suitable state of repair.

C. Bills and notices relating to the conduct of the business of the Town will be mailed to the customer at the address listed on the application, unless a change of address has been filed in writing at the business office of the Town; and the Town shall not otherwise be responsible for delivery of any bill or notice, nor will the customer be excused from nonpayment of a bill or from any performance required in said notice.

D. 1. Bills for sewer service are due and payable at the business office of the Town, or to any designated agent, on their date of issue. The past due date shall be the 30th day of the month after the period of service. Bills will be dated and mailed each month.

2. All bills not paid on or before the past due date shall be termed delinquent, and the Town shall serve on the customer a written final notice of said delinquency. If a delinquent bill is not paid within 30 days after date due, the sewer service to the user will be subject to discontinuance, or other measures as state law will allow.

E. Where the water or sewer service supplied to a customer has been discontinued for nonpayment of delinquent bill, the Town reserves the right to request a nominal sum be placed on deposit with the Town for the purpose of establishing or maintaining any customer's credit. The reconnection will not be made until after all delinquent bills and other charges, if any, owed by the customer to the Town have been paid.

F. The Town shall make all reasonable efforts to eliminate interruption of service, and when such interruption occurs will endeavor to re-establish service with the shortest possible delay. Whenever service is interrupted for purpose of working on the collection system or the treatment equipment, all consumers affected by such interruption will be notified in advance whenever it is possible to do so.

G. The Town shall in no event be held responsible for claim made against it by reason of the breaking of any mains or service pipes, or by reason of any other interruption of the service caused by the breaking of machinery or stoppage for necessary repairs; and no person shall be entitled to damages nor have any portion of a payment refunded for any interruption.

H. The premises receiving sanitary sewer service shall at all reasonable hours be subject to inspection by duly authorized personnel of the Town.

I. Special terms and conditions may be made where sewer service is used by the Town or community for public purposes such as public parks, etc.

J. These rules may be changed or amended.

SECTION XI VALIDITY

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION XII ORDINANCE IN FORCE

This ordinance to be in full force and effect from and after its passage, approval and publication according to the law of the State of Indiana.

PASSED by the Board of Trustees of the Town of Elberfeld, Indiana, on the 18 day of April, 1972, and approved by me this 18th day of April 1972.

C. Carl Nicholson
C. Carl Nicholson, President

(SEAL)

ATTEST:

Dorothy L. Thene
Dorothy L. Thene, Clerk-Treasurer

of the Board of Trustees of the
Town of Elberfeld, Indiana

Board of Trustees

yeas:

Charles Dittus

C. Carl Nicholson

nays:

ato

ORDINANCE NUMBER 2003-1#

AN ORDINANCE OF THE TOWN COUNCIL
OF THE TOWN OF ELBERFIELD, INDIANA
REGARDING
WASTEWATER PRETREATMENT

TABLE OF CONTENTS

	<u>Page</u>
SECTION 1 - GENERAL PROVISIONS.....	1
1.1 Purpose and Policy	1
1.2 Administration	1
1.3 Abbreviations ..	2
1.4 Definitions.....	3
SECTION 2 - GENERAL SEWER USE REQUIREMENTS	8
2.1 Prohibited Discharge Standards	8
2.2 Abnormal Waste Surcharge	10
2.3 National Categorical Pretreatment Standards.....	10
2.4 Local Limits	10
2.5 Town Council's Right of Revision	12
2.6 Dilution.....	12
SECTION 3 - PRETREATMENT OF WASTEWATER	12
3.1 Pretreatment Facilities.....	12
3.2 Additional Pretreatment Measures.....	12
3.3 Accidental Discharge/Slug Control Plans.....	13
3.4 Hauled Wastewater	13
SECTION 4 - WASTEWATER DISCHARGE PERMIT APPLICATION	14
4.1 Wastewater Analysis.....	14
4.2 Wastewater Discharge Permit Requirement.....	14
4.3 Wastewater Discharge Permitting:	
Existing Connections.....	14
4.4 Wastewater Discharge Permitting:	
New Connections.....	14
4.5 Wastewater Discharge Permit Application Contents.....	15
4.6 Application Signatories and Certification.....	15
4.7 Wastewater Discharge Permit Decisions	15
SECTION 5 - WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS.....	16
5.1 Wastewater Discharge Permit Duration.....	16
5.2 Wastewater Discharge Permit Contents.....	16
5.3 Wastewater Discharge Permit Appeals.....	17
5.4 Wastewater Discharge Permit Modification	17
5.5 Wastewater Discharge Permit Transfer.....	18
5.6 Wastewater Discharge Permit Revocation.....	18
5.7 Wastewater Discharge Permit Reissuance	19
5.8 Regulation of Waste Received from Other Jurisdictions.....	19
SECTION 6 - REPORTING REQUIREMENTS.....	20
6.1 Baseline Monitoring Reports.....	20
6.2 Compliance Schedule Progress Reports.....	21
6.3 Reports on Compliance with Categorical Pretreatment Standard Deadline.....	21
6.4 Periodic Compliance Reports.....	22

6.5	Reports of Changed Conditions	22
6.6	Reports of Potential Problems.....	22
6.7	Reports from Unpermitted Users	23
6.8	Notice of Violation/Repeat Sampling and Reporting.....	23
6.9	Notification of the Discharge of Hazardous Waste.....	23
6.10	Analytical Requirements.....	24
6.11	Sample Collection	24
6.12	Timing	24
6.13	Record Keeping.....	24
SECTION 7 - COMPLIANCE MONITORING		25
7.1	Right of Entry: Inspection and Sampling.....	25
7.2	Search Warrants	25
SECTION 8 - CONFIDENTIAL INFORMATION.....		25
SECTION 9- ADMINISTRATIVE ENFORCEMENT REMEDIES		26
9.1	Notification of Violation.....	26
9.2	Agreed Orders	26
9.3	Show Cause Hearing	26
9.4	Compliance Orders.....	27
9.5	Cease and Desist Orders.....	27
9.6	Administrative Fines	27
9.7	Emergency Suspensions.....	28
9.8	Termination of Discharge.....	28
SECTION 10 - JUDICIAL ENFORCEMENT REMEDIES		29
10.1	Injunctive Relief.....	29
10.2	Civil Penalties.	29
10.3	Remedies Nonexclusive	29
SECTION 11 - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS		30
11.1	Upset	30
11.2	Prohibited Discharge Standards	30
11.3	Bypass	31
SECTION 12 - MISCELLANEOUS PROVISIONS		32
12.1	Pretreatment Charges and Fees	32
12.2	Public Notice of SNC Discharges	32
SECTION 13 - EFFECTIVE DATE		32

ORDINANCE NO. _____

SECTION 1 - GENERAL PROVISIONS

1.1 Purpose and Policy

This ordinance sets forth uniform requirements for users of the Publicly Owned Treatment Works for the Town of Elberfield and enables the Town to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code § 1251 *et seq.*) and the General Pretreatment Regulations (40 Code of Federal Regulations Part 403). The objectives of this ordinance are:

- A. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation;
- B. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works, and the generation of biosolids used for beneficial agronomic reuse pursuant to 327 IAC 6.1;
- C. To protect both Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- D. To promote reuse and recycling of industrial wastewater and biosolids from the Publicly Owned Treatment Works;
- E. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Publicly Owned Treatment Works; and
- F. To enable the Town to comply with its National Pollutant Discharge Elimination System permit (No. IN0020788) conditions, biosolids use and disposal requirements, and any other Federal or State laws to which the Publicly Owned Treatment Works is subject.

This ordinance shall apply to all users of the Publicly Owned Treatment Works. The ordinance authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

1.2 Administration

Except as otherwise provided herein, the Utility Superintendent shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the Utility Superintendent may be delegated by the Utility Superintendent to other Town personnel.

1.3 Abbreviations

The following abbreviations, when used in this ordinance, shall have the designated meanings:

- BOD₅ - Biochemical Oxygen Demand - Five Day
- CFR - Code of Federal Regulations
- COD₅ - Chemical Oxygen Demand - Five Day
- EPA - U.S. Environmental Protection Agency - Washington D.C.
- EPA Reg. V - U.S. Environmental Protection Agency, Region V - Chicago, Illinois
- FOG - Fats, Oil and Grease
- gpd - gallons per day
- IC - Indiana Code
- I/I - Inflow and Infiltration (Clear Water Flow)
- IDEM - Indiana Department of Environmental Management
- IWP - Industrial Wastewater Discharge Permit
- mg/l - milligrams per liter
- NPDES - National Pollutant Discharge Elimination System
- O & G - Oil and Grease
- POTW - Publicly Owned Treatment Works
- RCRA - Resource Conservation and Recovery Act
- SIC - Standard Industrial Classification
- SNC - Significant Noncompliance
- SIU - Significant Industrial User

- TSS - Total Suspended Solids
- U.S.C. - United States Code
- WDP - Wastewater Discharge Permit

1.4 Definitions

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated.

- A. Act or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 *et seq.*
- B. Approval Authority. The Regional Administration of U.S. EPA Region V.
- C. Authorized Representative of the User.
 - (1) If the user is a corporation:
 - (a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - (b) The manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five (25) million dollars (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - (2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
 - (3) If the user is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
 - (4) The individuals described in paragraphs 1 through 3, above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Town Council.

- D. Biochemical Oxygen Demand or BOD₅. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 centigrade, usually expressed as a concentration (e.g., mg/l).
- E. Bypass. The intentional diversion of waste streams from any portion of an Industrial User's Treatment facility.
- F. Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. § 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.
- G. Clear Water Flow, Groundwater or precipitation related water which enters the sanitary sewer collection system through pipe defects (infiltration) or conduits (inflow).
- H. Combined Sewer. Sewer which carries both sanitary and stormwater flow by design.
- I. Town Council. Town Council, the Town of Elberfield, Indiana.
- J. Council. The Town Council of the Town of Elberfield, Indiana.
- K. Town. The Town of Elberfield under the jurisdiction of the Elberfield Town Council.
- L. Composite Sampling. Method of sampling which weights sample volume with discharge flow rate.
- M. Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency or, where appropriate, the Region V Water Management Division Director, or other duly authorized official of said agency.
- N. Existing Source. Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.
- O. Grab Sample. A sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.
- P. IDEM. The Indiana Department of Environmental Management.
- Q. Indirect Discharge or Discharge. The introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act.
- R. Instantaneous Maximum Allowable Discharge Limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.
- S. Interference. A discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations

or its sludge processes, use or disposal; and therefore, is a cause of a violation of the Town's NPDES permit (No. IN0020788) or of the prevention of biosolids use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

T. Medical Waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

U. New Source.

- (1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 - (a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - (b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - (c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
 - (a) Begun, or caused to begin, as part of a continuous on-site construction program

- (i) any placement, assembly, or installation of facilities or equipment; or
 - (ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - (b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.
- V. Noncontact Cooling Water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
- W. Pass Through. A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Town's NPDES permit (IN0020788), including an increase in the magnitude or duration of a violation.
- X. Person. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.
- Y. pH. A measure of the acidity or alkalinity of a solution, expressed in standard units.
- Z. Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., Ammonia-Nitrogen, pH, temperature, TSS, turbidity, color, BOD₅, COD₅, toxicity, or odor).
- AA. Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.
- BB. Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.
- CC. Pretreatment Standards or Standards. Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

- DD. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 2.1 of this ordinance.
- EE. Publicly Owned Treatment Works or POTW. A “treatment works,” as defined by Section 212 of the Act (33 U.S.C. §1292) which is owned by the Town. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.
- FF. Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
- GG. Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.).
- HH. Significant Industrial/Commercial User (SIU).
- (1) A user subject to categorical pretreatment standards; or
 - (2) A user that:
 - (a) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
 - (b) Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - (c) Is designated as such by the Town Council on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
 - (3) Upon a finding that a user meeting the criteria in Subsection (2) has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the Town Council may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.
- II. Significant Noncompliance (SNC). For compliance provisions of this Ordinance, Significant Noncompliance (SNC) is defined as follows:
- (1) Violations of Wastewater Discharge Limits
 - (a) **Chronic Violations.** Sixty-six percent (66%) or more of the measurements exceed the same daily maximum limit or the same average limit in a six (6) month period.

- (b) **Technical Review Criteria (TRC).** Thirty-three percent (33%) or more of the measurements exceed the same daily maximum limit or the same average limit by more than the TRC in a six (6) month period.

There are two (2) groups of TRCs:

- (i) Group I for conventional pollutants (BOD₅, COD, TSS, fats, oil and grease) TRC = 1.4 (40%)
 - (ii) Group II for all other pollutants (e.g. ammonia-nitrogen, heavy metals, surfactants, and pH) TRC = 1.2 (20%)
- (c) Any other violation(s) of an effluent limit (Average or daily maximum) that the Utility Superintendent believes has caused, along or in combination with other discharges, interference (e.g., slug loads) or pass-through; or endangered the health of the sewage treatment personnel or the public.
- (d) Any discharge of a pollutant which has caused imminent endangerment to human health/welfare or to the environment and resulted in the POTWs exercise of this emergency authority to halt or prevent such a discharge.
- (2) Violation of compliance schedule milestones, contained in a local control mechanism or enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.
- (3) Failure to provide reports for compliance schedules, self-monitoring data, or categorical standards (baseline monitoring reports, 90-day compliance reports, and periodic reports) within 30 days from due date.
- (4) Failure to accurately report non-compliance.
- (5) Any other violation or group of violations which the Utility Superintendent considers to be significant.

JJ. Slug Load or Slug. Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in Section 2.1 of this ordinance.

KK. Standard Industrial Classification (SIC) Code. A classification pursuant to the *Standard Industrial Classification Manual* issued by the United States Office of Management and Budget.

LL. Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

MM. Upset. An exceptional incident in which there is an unintentional incident and temporary noncompliance with categorical and/or permitted Pretreatment Standards because of

factors beyond the reasonable control of Industrial User. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, lack of preventive maintenance, or careless or improper operation.

- NN. Utility Superintendent. The person designated by the Elberfield Town Council who is charged with certain duties and responsibilities by this ordinance, or a duly authorized representative.
- OO. Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.
- PP. User or Industrial User. A source of indirect discharge.
- QQ. Wastewater. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.
- RR. Wastewater Discharge Permit. A permit issued by the Town to a user of the wastewater utility which establishes specific conditions and requirements.
- SS. Wastewater Treatment Plant or Treatment Plant. That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

SECTION 2 - GENERAL SEWER USE REQUIREMENTS

2.1 Prohibited Discharge Standards

- A. General Prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements.
- B. Specific Prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
 - (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140 F (60 C) using the test methods specified in 40 CFR 261.21;
 - (2) Wastewater having a pH less than 5.0 or more than 10.0, or otherwise causing corrosive structural damage to the POTW or equipment;

- (3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference. Total Suspended Solids levels in excess of 250 mg/l daily average may be subject to a surcharge per Section 2.2 (cross reference to rate ordinance);
- (4) Pollutants, including oxygen-demanding pollutants (BOD, etc.) and Ammonia-Nitrogen, released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW. BOD levels in excess of 250 mg/l daily average and Ammonia-Nitrogen levels in excess of 30 mg/l may be subject to a surcharge per Section 2.2 (cross reference to rate ordinance);
- (5) Wastewater having a temperature greater than 150 F (65 C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 F (40 C);
- (6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
- (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW sewers including in a quantity that may cause acute worker health and safety problems;
- (8) Trucked or hauled pollutants, except at discharge points designated by the Utility Superintendent in accordance with Section 3.4 of this ordinance;
- (9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
- (10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the Town's NPDES permit (No. IN0020788);
- (11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;
- (12) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the Utility Superintendent;
- (13) Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- (14) Medical wastes, except as specifically authorized by the Utility Superintendent in a wastewater discharge permit;

- (15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- (16) Detergents, surface-active agents, or other substances which may cause excessive foaming and/or toxicity to the biological treatment process in the POTW;

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

1.2 Abnormal Waste Surcharge

- A. In the event the Town Council excludes a customer from the requirements of Section 2.1 and the customer discharges abnormal industrial wastes to the public sanitary sewerage system having an average total suspended solids (TSS) content in excess of 250 mg/l, an average total Ammonia-Nitrogen (NH₃-N) content in excess of 30 mg/l, and/or an average of five (5) day BOD in excess of 250 mg/l, the customer shall pay a surcharge based upon the excess strength of his wastes.
- B. The costs of treatment for each pound of BOD, Ammonia-Nitrogen, suspended solids, or grease removed by each treatment works shall be reviewed by the Town at the end of each fiscal year. If a discrepancy exists between the actual costs as found by the Town and the estimated costs, the Town Council shall increase or decrease the surcharge rates sufficiently to cover only the projected actual costs for the ensuing year.
- C. No reduction in sewerage service charges, fees, or taxes will be permitted because of the fact that certain industrial wastes discharged to the public sanitary sewerage system contain less than 250 milligrams per liter of suspended solids, 30 milligrams per liter NH₃-N, or 250 milligrams per liter BOD.

2.3 National Categorical Pretreatment Standards

The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated.

- A. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Utility Superintendent may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- B. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Utility Superintendent shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).
- C. A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
- D. A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

2.4 Local Limits

The following pollutant limitations are established to protect against pass through interference and biosolids quality. No person shall discharge wastewater containing in excess of the following maximum concentrations based upon grab.

Maximum Concentration Limitations

.007	mg/l Arsenic (total)
.017	mg/l Cadmium (total)
.187	mg/l Hex. Chromium
.747	mg/l Total Chromium
.37	mg/l Copper
.023	mg/l Cyanide (total)
.111	mg/l Lead (total)
.0094	mg/l Mercury
.04	mg/l Molybdenum (total)
.48	mg/l Nickel
100	mg/l Oil & Grease [1]
.03	mg/l Selenium
.175	mg/l Silver
2.03	mg/l Zinc (total)

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for "total" metal unless indicated otherwise. The Utility Superintendent may impose mass limitations in addition to, or in place of, the concentration-based limitations above.

Upon the promulgation of the National Categorical Pretreatment Standard (NCPS) for a particular user, the said standard, if more stringent than the limitations imposed under this chapter for sources in that category, shall, when effective, immediately supersede the limitations and conditions imposed under this ordinance. The Utility Superintendent shall notify all known affected users of the applicable permitting and reporting requirements under 40 CFR 403.12.

[1] As an alternative to the total oil and grease limitations established by this section, the Town Council may establish in an IWP a limitation of 50 mg/l for non-polar grease. The alternative limitation is subject to the following conditions:

1. The user submits an application for the alternative limit;
2. The user provides information regarding the user's products, processes, and operations that shows to the Town Council's satisfaction that the oil and grease discharged by the user is predominantly of animal or vegetable origin;
3. The user shows that the oil and grease in the user's discharges is not visible, free, or floating at 50° F at any time;
4. The user has sampling facilities that allow for both visual inspection of the user's discharge and using the equipment necessary for collection samples for floatable oil and grease;
5. The oil and grease in the user's discharge is not related to past instances of obstruction, interference, or pass through;
6. Users subject to the alternative limit shall continue to operate and maintain grease traps and any other oil and grease separation and treatment equipment and shall continue all existing practices that reduce discharges of oil and grease;
7. If the Town Council determines that a user subject to the alternative limit has caused, alone or in conjunction with other discharges, obstruction, interference, or pass through, then the user shall comply with the total oil and grease limitation or another appropriate limitation established by the Council in the user's IWP; and
8. Any other appropriate conditions set forth in the user's SIU.

2.5 Town Council's Right of Revision

The Town Council reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

2.6 Dilution

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Utility Superintendent may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

SECTION 3 - PRETREATMENT OF WASTEWATER

3.1 Pretreatment Facilities

Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in Section 2.1 of this ordinance within the time limitations specified by EPA, IDEM, or the Utility Superintendent, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Utility Superintendent for review, and shall be acceptable to the Utility Superintendent before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the Town under the provisions of this ordinance.

3.2 Additional Pretreatment Measures

- A. Whenever deemed necessary, the Utility Superintendent may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this ordinance.
- B. The Utility Superintendent may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
- C. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

- D. Users which operate vehicular wash facilities shall provide, operate and maintain pretreatment facilities approved by the Utility Superintendent to control solids and preclude the discharge of toxics to the POTW.
- E. Users which operate food preparation facilities shall provide, operate and maintain pretreatment facilities approved by the Utility Superintendent to control the discharge of greases, fats, oils and food solids to the POTW.

3.3 Accidental Discharge/Slug Control Plans

At least once every two (2) years, the Utility Superintendent shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The Utility Superintendent may require any user to develop, submit for approval, and implement such a plan. Alternatively, the Utility Superintendent may develop such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:

- A. Description of discharge practices, including nonroutine batch discharges;
- B. Description of stored chemicals;
- C. Procedures for immediately notifying the Utility Superintendent of any accidental or slug discharge, as required by Section 6.6 of this ordinance; and
- D. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

3.4 Hauled Wastewater

- A. Wastewater haulers shall have a valid wastewater hauler discharge permit before discharging wastes to the POTW. Each permitted wastewater hauling vehicle shall prominently display a number issued by the Town on both doors of the vehicle cab. Such numbers shall be removable only by destruction.
- B. Wastewater may be introduced into the POTW only at locations designated by the Utility Superintendent, and at such times as are established by the Utility Superintendent. Such waste shall not violate Section 2 of this Ordinance or any other requirements established by the Town.
- C. Prior to being issued a hauler discharge permit, the following conditions shall be met:
 - (1) Each truck shall have a sight glass calibrated in 100-gallon increments.

- (2) Each vehicle shall be equipped to use the quick disconnect couplers at the wastewater hauler dumping station or at a point designated by the Utility Superintendent.
 - (3) Each vehicle shall maintain records evidencing the origin of the wastewater to be discharged and each driver shall record such information on forms provided by the Town.
- D. All procedures for discharging, for cleanliners, and for general sanitary operation on Town property as prescribed by the Town shall be strictly adhered to by all wastewater haulers delivering wastewater to the designated Town dumping station or at a point designated by the Utility Superintendent.
 - E. Wastewater from a domestic level user shall not be mixed with wastewater from an industrial user. Vehicles hauling wastewater from an industrial user shall not be used to haul wastewater from a domestic level user for disposal at the POTW.
 - F. Wastewater from an industrial user shall identify in writing the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.
 - G. In addition to remedies available to the Town elsewhere in this chapter, failure of a wastewater hauler to comply with the provisions set out herein shall be grounds for **revocation** of their hauler's discharge permit by the Town Council.

SECTION 4 - WASTEWATER DISCHARGE PERMIT APPLICATION

4.1 Wastewater Analysis

When requested by the Utility Superintendent, a user must submit information on the nature and characteristics of its wastewater within thirty (30) days of the request. The Utility Superintendent is authorized to prepare a form for this purpose and may periodically require users to update this information.

4.2 Wastewater Discharge Permit Requirement

- A. No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Utility Superintendent, except that a significant industrial user that has filed a timely application pursuant to Section 4.3 of this ordinance may continue to discharge for the time period specified therein.

- B. The Utility Superintendent may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this ordinance.
- C. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in Sections 9 through 11 of this ordinance. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State, and local law.

4.3 Wastewater Discharge Permitting: Existing Connections

Any user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within thirty (30) days after said date, apply to the Utility Superintendent for a wastewater discharge permit in accordance with Section 4.5 of this ordinance, and shall not cause or allow discharges to the POTW to continue after thirty (30) days of the effective date of this ordinance except in accordance with a wastewater discharge permit issued by the Utility Superintendent.

4.4 Wastewater Discharge Permitting: New Connections

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with Section 4.5 of this ordinance, must be filed at least thirty (30) days prior to the date upon which any discharge will begin or recommence.

4.5 Wastewater Discharge Permit Application Contents

All users required to obtain a wastewater discharge permit must submit a permit application. The Utility Superintendent may require all users to submit as part of an application the following information:

- A. All information required by Section 6.1(B) of this ordinance;
- B. Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
- C. Number and type of employees, hours of operation, and proposed or actual hours of operation;

- D. Each product produced by type, amount, process or processes, and rate of production;
- E. Type and amount of raw materials processed (average and maximum per day);
- F. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
- G. Time and duration of discharges; and
- H. Any other information as may be deemed necessary by the Utility Superintendent to evaluate the wastewater discharge permit application.

Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

4.6 Application Signatories and Certification

All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

4.7 Wastewater Discharge Permit Decisions

The Utility Superintendent will evaluate the data furnished by the user and may require additional information. Within fifteen (15) days of receipt of a complete wastewater discharge permit application, the Utility Superintendent will determine whether or not to issue a wastewater discharge permit. The Utility Superintendent may deny any application for a wastewater discharge permit.

SECTION 5 - WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS

5.1 Wastewater Discharge Permit Duration

A wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit, unless administratively extended by the Utility Superintendent in writing. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the Utility Superintendent. Each wastewater discharge permit will indicate a specific date upon which it will expire.

5.2 Wastewater Discharge Permit Contents

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Utility Superintendent to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

A. Wastewater discharge permits must contain:

- (1) A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;
- (2) A statement that the wastewater discharge permit is nontransferable without prior notification to the Town Council in accordance with Section 5.5 of this ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- (3) Effluent limits based on applicable pretreatment standards;
- (4) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law; and
- (5) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.

B. Wastewater discharge permits may contain, but need not be limited to, the following conditions:

- (1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

- (2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
- (3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;
- (4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;\
- (5) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
- (6) Requirements for installation and maintenance of inspection and sampling facilities and equipment;
- (7) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and
- (8) Other conditions as deemed appropriate by the Utility Superintendent to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

5.3 Wastewater Discharge Permit Appeals

The Utility Superintendent shall provide public notice of the issuance of a wastewater discharge permit. Any person, including the user, may petition the Utility Superintendent to reconsider the terms of a wastewater discharge permit within fifteen (15) days of notice of its issuance.

- A. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- B. In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
- C. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
- D. If the Utility Superintendent fails to act within thirty (30) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

- E. Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the Warrick County Circuit Court within thirty (30) days.

5.4 Wastewater Discharge Permit Modification

The Utility Superintendent may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- A. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;
- B. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
- C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- D. Information indicating that the permitted discharge poses a threat to the Town's POTW biosolids generation, Town personnel, or the receiving waters;
- E. Violation of any terms or conditions of the wastewater discharge permit;
- F. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- G. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
- H. To correct typographical or other errors in the wastewater discharge permit; or
- I. To reflect a transfer of the facility ownership or operation to a new owner or operator.

5.5 Wastewater Discharge Permit Transfer

Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least sixty (60) days advance notice to the Utility Superintendent and the Utility Superintendent approves the wastewater discharge permit transfer. The notice to the Utility Superintendent must include a written certification by the new owner or operator which:

- A. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- B. Identifies the specific date on which the transfer is to occur; and

- C. Acknowledges full responsibility for complying with the existing wastewater discharge permit.

Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

5.6 Wastewater Discharge Permit Revocation

The Utility Superintendent may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- A. Failure to notify the Utility Superintendent of significant changes to the wastewater prior to the changed discharge;
- B. Failure to provide prior notification to the Utility Superintendent of changed conditions pursuant to Section 6.5 of this ordinance;
- C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- D. Falsifying self-monitoring reports;
- E. Tampering with monitoring equipment;
- F. Refusing to allow the Utility Superintendent or his agent timely access to the facility premises and records;
- G. Failure to meet effluent limitations;
- H. Failure to pay fines;
- I. Failure to pay sewer charges;
- J. Failure to meet compliance schedules;
- K. Failure to complete a wastewater survey or the wastewater discharge permit application;
- L. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- M. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this ordinance.

Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

5.7 Wastewater Discharge Permit Reissuance

A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 4.5 of this ordinance, a minimum of one hundred eighty (180) days prior to the expiration of the user's existing wastewater discharge permit.

5.8 Regulation of Waste Received from Other Jurisdictions

- A. If another municipality, or sewer district contributes wastewater to the POTW, the Utility Superintendent shall enter into an intermunicipal or interdistrict agreement with the contributing entity.
- B. Prior to entering into an agreement required by paragraph A, above, the Utility Superintendent shall request the following information from the contributing entity:
 - (1) A description of the quality and volume of wastewater discharged to the POTW by the contributing entity;
 - (2) An inventory of all users located within the contributing entity that are discharging to the POTW; and
 - (3) Such other information as the Utility Superintendent may deem necessary.
- C. An agreement, as required by paragraph A, above, shall contain the following conditions:
 - (1) A requirement for the contributing entity to adopt a sewer use ordinance which is at least as stringent as this ordinance and local limits which are at least as stringent as those set out in Section 2.4 of this ordinance. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the Town's ordinance or local limits;
 - (2) A requirement for the contributing entity to submit a revised user inventory on at least an annual basis;
 - (3) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the Utility Superintendent; and which of these activities will be conducted jointly by the contributing municipality and the Utility Superintendent;
 - (4) A requirement for the contributing entity to provide the Utility Superintendent with access to all information that the contributing entity obtains as part of its pretreatment activities;
 - (5) Limits on the nature, quality, and volume of the contributing entity's wastewater at the point where it discharges to the POTW;

- (6) Requirements for monitoring the contributing entity's discharge;
- (7) A provision ensuring the Utility Superintendent access to the facilities of users located within the contributing entity's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Utility Superintendent; and
- (8) A provision specifying remedies available for breach of the terms of the intermunicipal or interdistrict agreement.

SECTION 6 - REPORTING REQUIREMENTS

6.1 Baseline Monitoring Reports

- A. Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the Utility Superintendent a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the Utility Superintendent a report which contains the information listed in paragraph B, below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
- B. Users described above shall submit the information set forth below.
 - (1) Identifying Information. The name and address of the facility, including the name of the operator and owner.
 - (2) Environmental Permits. A list of any environmental control permits held by or for the facility.
 - (3) Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
 - (4) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).

- (5) Measurement of Pollutants.
- (a) The categorical pretreatment standards applicable to each regulated process.
 - (b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Utility Superintendent, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 6.10 of this ordinance.
 - (c) Sampling must be performed in accordance with procedures set out in Section 6.11 of this ordinance.
- (6) Certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
- (7) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Section 6.2 of this ordinance.
- (8) Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with Section 4.6 of this ordinance.

6.2 Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by Section 6.1(B)(7) of this ordinance:

- A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, project status reports, beginning operation, and attain compliance);
- B. No increment referred to above shall exceed nine (9) months;
- C. The user shall submit a progress report to the Utility Superintendent no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the

reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

- D. In no event shall more than nine (9) months elapse between such progress reports to the Utility Superintendent.

6.3 Reports on Compliance with Categorical Pretreatment Standard Deadline

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Utility Superintendent a report containing the information described in Section 6.1(B)(4-6) of this ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 4.6 of this ordinance.

6.4 Periodic Compliance Reports

- A. All significant industrial users shall, at a frequency determined by the Utility Superintendent but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Section 4.6 of this ordinance.
- B. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- C. If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Utility Superintendent, using the procedures prescribed in Section 6.11 of this ordinance, the results of this monitoring shall be included in the report.

6.5 Reports of Changed Conditions

Each user must notify the Utility Superintendent of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least ninety (90) days before the change.

- A. The Utility Superintendent may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 4.5 of this ordinance.
- B. The Utility Superintendent may issue a wastewater discharge permit under Section 4.7 of this ordinance or modify an existing wastewater discharge permit under Section 5.4 of this ordinance in response to changed conditions or anticipated changed conditions.
- C. For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty percent (20%) or greater, and the discharge of any previously unreported pollutants.

6.6 Reports of Potential Problems

- A. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall **immediately** telephone and notify the Utility Superintendent of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
- B. Within five (5) days following such discharge, the user shall, unless waived by the Utility Superintendent, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.
- C. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph A, above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

6.7 Reports from Unpermitted Users

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Utility Superintendent as the Utility Superintendent may require.

6.8 Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a user indicates a violation, the user must notify the Utility Superintendent within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Utility Superintendent within thirty (30) days after becoming aware of the violation. The user is not required to resample if the Utility Superintendent monitors at the user's facility at least once a month, or if the Utility Superintendent samples between the user's initial sampling and when the user receives the results of this sampling.

6.9 Notification of the Discharge of Hazardous Waste

- A. Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State (IDEM) hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section 6.5 of this ordinance. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of Sections 6.1, 6.3, and 6.4 of this ordinance.
- B. Dischargers are exempt from the requirements of paragraph A, above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
- C. In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the Utility Superintendent, the EPA Regional Waste Management Waste Division Director, and the Indiana Department of Environmental

Management (IDEM) of the discharge of such substance within ninety (90) days of the effective date of such regulations.

- D. In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- E. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable Federal or State law.

6.10 Analytical Requirements

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.

6.11 Sample Collection

- A. Except as indicated in Section B, below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the Utility Superintendent may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.
- B. Samples for oil and grease (O & G), temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

6.12 Timing

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern. Facsimiles may be accepted on a case-by-case basis if approved by the Utility Superintendent.

6.13 Record Keeping

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the Town of Elberfield, or where the user has been specifically notified of a longer retention period by the Utility Superintendent.

SECTION 7 - COMPLIANCE MONITORING

7.1 Right of Entry: Inspection and Sampling

The permittee shall allow the Utility Superintendent, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

- A. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this ordinance.
- B. Have access to an copy, at reasonable times, any records that must be kept under the conditions of this ordinance;
- C. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this ordinance.
- D. Sample or monitor, for the purposes of assuring permit compliance, any substances or parameters at any locations; and
- E. Inspect any production, manufacturing, fabricating, or storage area where pollutants, regulated under the permit, could originate, be stored, or be discharged to the sewer system.

7.2 Search Warrants

If the Utility Superintendent has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Town designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Utility

Superintendent may seek issuance of a search warrant from the Warrick County Circuit Court of Boonville, Indiana.

SECTION 8 - CONFIDENTIAL INFORMATION

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the Utility Superintendent's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the Utility Superintendent, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

SECTION 9 - ADMINISTRATIVE ENFORCEMENT REMEDIES

9.1 Notification of Violation

When the Utility Superintendent finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Utility Superintendent may serve upon that user a written Notice of Violation. Within thirty (30) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Utility Superintendent. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the Utility Superintendent or the Town of Elberfield to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

9.2 Agreed Orders

The Utility Superintendent may enter into Agreed Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 10.4 and 10.5 of this ordinance and shall be judicially enforceable.

9.3 Show Cause Hearing

The Utility Superintendent may order a user which has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Utility Superintendent and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least fifteen (15) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

9.4 Compliance Orders

When the Utility Superintendent finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Utility Superintendent may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

9.5 Cease and Desist Orders

When the Utility Superintendent finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Utility Superintendent may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- A. Immediately comply with all requirements; and
- B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

9.6 Administrative Fines

- A. When the Utility Superintendent finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Utility Superintendent may fine such user in an amount not to exceed \$2,500 as provided by IC 36-1-3-8. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation.
- B. Unpaid charges, fines, and penalties shall, after sixty (60) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance, and interest shall accrue thereafter at a rate of 1.8 percent per month. A lien against the user's property will be sought for unpaid charges, fines, and penalties.
- C. Users desiring to dispute such fines must file a written request for the Utility Superintendent to reconsider the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. Where a request has merit, the Utility Superintendent may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The Utility Superintendent may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.
- D. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

9.7 Emergency Suspensions

The Utility Superintendent may immediately suspend a user's discharge, after formal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Utility Superintendent may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

- A. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Utility Superintendent may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Utility Superintendent may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Utility Superintendent that the period of endangerment has passed, unless the termination proceedings in Section 10.8 of this ordinance are initiated against the user.
- B. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Utility Superintendent prior to the date of any show cause or termination hearing under Sections 10.3 or 10.8 of this ordinance.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

9.8 Termination of Discharge

In addition to the provisions in Section 5.6 of this ordinance, any user who violates the following conditions is subject to discharge termination:

- A. Violation of wastewater discharge permit conditions;
- B. Failure to accurately report the wastewater constituents and characteristics of its discharge;
- C. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- D. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or

- E. Violation of the pretreatment standards in Section 2 of this ordinance.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 10.3 of this ordinance why the proposed action should not be taken. Exercise of this option by the Utility Superintendent shall not be a bar to, or a prerequisite for, taking any other action against the user.

SECTION 10 - JUDICIAL ENFORCEMENT REMEDIES

10.1 Injunctive Relief

When the Utility Superintendent finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Utility Superintendent may petition the Warrack County Circuit Court through the Town's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the user. The Utility Superintendent may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

10.2 Civil Penalties

- A. A user who has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the Town for a maximum civil penalty \$2,500 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
- B. The Utility Superintendent may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the Town.
- C. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
- D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

10.3 Remedies Nonexclusive

The remedies provided for in this ordinance are not exclusive. The Utility Superintendent may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the Town's enforcement response plan. However, the Utility Superintendent may take other action against any user when the circumstances warrant. Further, the Utility Superintendent is empowered to take more than one enforcement action against any noncompliant user.

SECTION 11 - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

11.1 Upset

- A. For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- B. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (C), below, are met.
- C. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (1) An upset occurred and the user can identify the cause(s) of the upset;
 - (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - (3) The user has submitted the following information to the Utility Superintendent within twenty-four (24) hours of becoming aware of the upset:
 - (a) A description of the indirect discharge and cause of noncompliance;
 - (b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - (c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- D. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

- (2) A user shall submit oral notice to the Utility Superintendent of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Utility Superintendent may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.
- D. (1) Bypass is prohibited, and the Utility Superintendent may take an enforcement action against a user for a bypass, unless
 - (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (c) The user submitted notices as required under paragraph (C) of this section.
- (2) The Utility Superintendent may approve an anticipated bypass, after considering its adverse effects, if the Utility Superintendent determines that it will meet the three conditions listed in paragraph (D)(1) of this section.

SECTION 12 - MISCELLANEOUS PROVISIONS

12.1 Pretreatment Charges and Fees

The Town Council may adopt reasonable fees for reimbursement of costs of setting up and operating the Town's Pretreatment Program which may include:

- A. Fees for wastewater discharge permit applications including the cost of processing such applications;
- B. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;
- C. Fees for reviewing and responding to accidental discharge procedures and construction;

- D. Fees to filing appeals; and
- E. Other fees as the Town Council may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines, and penalties chargeable by the Town.

12.2 Public Noticing of SNC Discharges

The Utility Superintended shall, on a yearly basis, publish a listing of individual significant industrial users (SIU's) found to be in significant noncompliance (SNC) during the previous 12 month period. The notice shall be placed in the legal notice section of the newspaper of largest circulation within the Town of Elberfield. This listing shall include the name of SIU and the basis for SNC determination.

SECTION 13 - EFFECTIVE DATE

- A. This ordinance shall become immediately effective upon its adoption by the Town Council, and publication of notice as required by law.
- B. Any ordinance in contradiction to this ordinance is hereby repealed.

The foregoing ordinance was passed and adopted by the Town Council of the Town of Elberfield, Indiana at a regular meeting held on the 21 day of April, 2003.

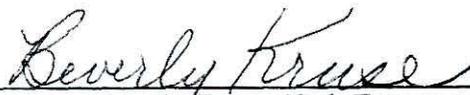

Duane Erwin, President


Jeffrey Richardt, Council Member


Steve Gibson, Council Member

(SEAL)

ATTEST:


Beverly Kruse, Clerk-Treasurer

CAUSE NO. 44766

MATERIALS REFERENCED IN RESPONSE TO DOCKET ENTRY

QUESTION #3

SEWER RATE ORDINANCE

ORDINANCE 8-1997

AN ORDINANCE ESTABLISHING RATES AND CHARGES FOR THE USE
AND SERVICE OF THE MUNICIPAL SANITARY SEWER SYSTEM
OF THE TOWN OF ELBERFELD, INDIANA

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF ELBERFELD, WARRICK
COUNTY, INDIANA:

SECTION 1: There shall be and there is hereby established a sewer service charge for the use and for the service supplied by the municipality sanitary sewer system of the Town of Elberfeld, based upon the amount and rate of water consumed as follows:

<u>RATE</u>	<u>SEWER SERVICE CHARGE</u>
First 3,000 gal. or less per month	\$12.00 per month (minimum monthly bill)
3,001 - 10,000 gal.	\$12.00 plus \$2.50 per 1000 gal.
10,001 - 20,000 gal.	\$29.60 plus \$2.45 per 1000 gal.
20,001 - 50,000 gal.	\$54.10 plus \$2.40 per 1000 gal.
Over 50,000 gal.	\$126.10 plus \$2.30 per 1000 gal.

In no case shall the minimum service charge be less than \$12.00 per month, which is necessary to retire the indebtedness, operating and maintenance, and reserve necessary for maintaining the sanitary sewer facility.

Customers of the sanitary sewer facility which are not customers of the municipal water system shall pay a minimum charge of \$ 14.50 per month.

Service to industrial establishments shall be by contract and be based upon the strength of sewage as determined by the Town Council.

SECTION 2: There shall be and there is hereby established charges for inspection and tap-in fees.

Each new sewer customer shall pay a tap-in fee as follows:

- \$1,300 plus cost incurred for each tap required for residential customers
- \$1,300 plus cost incurred for each tap required for commercial customers up to 5,000 square feet of floor space. Add the following to base 5,000 sq. ft.:
 - \$.05 for additional sq. ft. up to 24,999 sq. ft.
 - \$.02 for additional sq. ft. up to 99,999 sq. ft.

The Town Council shall establish the tap-in fee for any other non-listed commercial tap-in.

Tap-in fees for industrial establishments shall be by special permit and based upon the strength and amount of sewage as determined by the Town Council.

The Town Council reserves the right to enter into contracts with a residential developer who constructs, at his sole expense, a sanitary sewer line to service a subdivision he is developing.

An inspection fee of \$10.00 will be imposed for each sewer tap-in.

SECTION 3: Bills for the rates and charges are herein established by the Town shall be sent monthly. All bills shall be payable on the 15th day following the period of service and shall be paid at the office of the Town. If any charge for the services of the system shall not be paid by the 15th day of the month in which it shall become due and payable, a charge of 10% of the amount of the bill shall be added thereto and collected therewith. If any bills for the service of the sewer system shall remain unpaid after 30 days following the rendition of the bill therefor, the water supply for the lot, parcel of land or premise affected shall be cut off and shall not be turned on again except on payment in full of the delinquent charges therefor, in addition to the payment of a charge of \$5.00.

SECTION 4: The service charges for sanitary sewer service to customers not being supplied water by a municipal water system will be due and payable on the 15th day of each month. Penalties for non-payment of bills will be provided under Section 3 hereof. An additional (\$.25) monthly charge for each customer using the sanitary sewer service, while not using the municipal water system, shall be paid for fire protection services.

SECTION 5: The owner of the premises served and the occupant thereof and the user of the sanitary sewer service shall be jointly and severally liable for the sewer service provided said premises. A deposit of \$25.00 shall be required from all tenants. The deposit shall be applied to any bill for sewer service delinquent more than 30 days. Upon the discontinued use of the sewer service, any balance of such deposit shall be returned to the applicant without interest.

SECTION 6: It is hereby made the duty of the Clerk-Treasurer to render bills for sewer service and all other charges in connection therewith and to collect all monies due therefrom.

SECTION 7: All revenues and monies derived from the operation of the sewer system shall be paid to and held by the Clerk-Treasurer separate and apart from all other funds of the Town and all of said sums and all other funds and monies incidental to the operation of said system, as may be delivered to the Clerk-Treasurer, shall be deposited in a separate fund designated the "Sanitary Sewer Fund Account" and said Clerk-Treasurer shall administer said fund in every respect in a manner provided by the Statutes of Indiana pertaining thereto.

SECTION 8: The Clerk-Treasurer shall establish a proper system of accounts and shall keep proper records, books and accounts in which complete and correct entries shall be made of all transactions relative to the sewer system.

SECTION 9: All Ordinances and parts of Ordinances in conflict herewith are hereby repealed insofar as the conflicting portions thereof are concerned.

SECTION 10: This Ordinance shall be in full force from and after its passage.

Approved, passed, and enacted by the Elberfeld Town Council,
this 12 day of NOVEMBER, 1997.

Richard Lochmueller
President

Larry E. Meyer
Council Member

Quane E. Ems
Council Member

Attested:

Beverly Kruse
Beverly Kruse, Clerk Treasurer

AMENDMENT TO SEWER RATE ORDINANCE 8-1997

Duane Erwin read the Amendment to Sewer rate Ordinance 8-1997, which will increase the amount required for a renter to pay for a sewer deposit. The amount will increase from \$25.00 to \$60.00. Steve Gibson motioned to adopt the Sewer Rate Ordinance 8-1997 and waive the second and third readings. Duane Erwin seconded, two in favor, motion carried on this day Wednesday January 9, 2002.

ORDINANCE 1999- 6

AN ORDINANCE ADJUSTING CONNECTION FEES FOR SEWER UTILITY

WHEREAS, the Town Council of Elberfeld, Indiana finds that the present connection fee ordinance is too general in nature; and which may cause connection fees to be disproportional; and that the existing fee scale should be adjusted:

BE IT ORDAINED by the Council of the Town of Elberfeld, Indiana:

SECTION I - SEWER CONNECTION FEES: The connection fee for the Town's Sewer Utility shall be as follows:

1. Residential Use:

Homes (Single Family)	\$1,300.00
Homes (Duplex)	\$1,800.00
Apartments	\$1,300.00 base charge plus \$ 400.00 per apartment unit
Trailer Parks	\$1,300.00 base charge plus \$ 500.00 per trailer

2. Institutional/Commercial/Industrial:

Minimum	\$1,300.00 for average usage not to exceed 6,000 gallons per month.
---------	---

If average usage is over 6,000 gallons per month, an adjusted fee based on a single family residence equivalent shall be charged. A single family residence equivalent is defined as 6,000 gallons per month.

The initial connection fee shall be based on estimated usage. The fee shall be adjusted after one full year to reflect actual average usage.

The formula for computing the connection fee for usage of more than 6,000 gallons per month shall be as follows: average monthly usage divided by 6,000 multiplied by \$1,300.00.

3. New Development (within Town limits, or petitioned for annexation to Town)

Subdivisions containing 10 or more platted lots:

If the owner or developer has paid for the extension of the sewer lines, complete with laterals; **and** the development is within the Town limits, **or** the development has been petitioned for annexation to the Town by the owner or developer, the appropriate connection fees shall be reduced by \$400.00.

SECTION II: The provisions of all ordinances inconsistent with this ordinance be and are hereby repealed.

SECTION III: This Ordinance shall be in full force and effect beginning October 13, 1999.

Dated this 13 day of October, 1999.

ELBERFELD TOWN COUNCIL

Richard Lochnella

Jeffrey A. Richardt

Duane E. Ewald

Attest:

Beverly Kuse
Clerk-Treasurer